

REMARKS

In the Office Action, the Examiner rejected claims 1-19 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claims 1, 18, and 19, the Examiner stated that

"The claim limitation uses the phrase "means for" or "step for", but it is modified by some structure, material, or acts recited in the claim. It is unclear whether the recited structure, material, or acts are sufficient for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph, because claim 1 recites a "two-position, three-way valve means connected intermediate said source of fluid pressure and said release cylinder for causing said release cylinder to release such hand brake system", "a first valve actuation means...for causing said valve means to initiate communication of fluid pressure from said source of fluid pressure to said release cylinder", and "a second valve actuation means...for causing said valve means to initiate communication of fluid pressure from said source of fluid pressure to said release cylinder." Claim 18 recites "a valve means connected intermediate said source of fluid pressure and said release cylinder for causing said release cylinder to release such hand brake system." Claim 19 recites "an electrically operable valve means...for causing said release cylinder to release such hand brake system", "an electrically operable first valve actuation means...for causing said valve means to initiate communication of fluid pressure from said source of fluid pressure to said release cylinder", and "an electrically operable second valve actuation means...for causing said valve means to initiate communication of fluid pressure from said source of fluid pressure to said release cylinder."

The Examiner further stated that

"If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that the phrase "means for" or "step for" is clearly **not** modified by sufficient structure, material, or acts for performing the claimed function.

If applicant does **not** wish to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not be a means (or step) plus function limitation (e.g., deleting the phrase "means for" or "step for").

The remaining claims are indefinite due to their dependency from claim 1."

Limitation "means" has been canceled from all pending claims.

Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1-19 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Next, the Examiner rejected claim 1 under 35 U.S.C. 102(e)(2) as being anticipated by US Patent 6394559 to Ring et al. The Examiner stated that

"The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and

is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Re: claim 1. Ring et al. show in figure 2 apparatus to enable automatic release of a railway vehicle hand brake system 11 from either side of such vehicle, said apparatus comprising: (a) a source 14 of fluid pressure engageable with such vehicle; (b) a release cylinder 40 operable by fluid pressure connected to a hand brake mechanism, such hand brake mechanism engageable with a brake system disposed on such vehicle; (c) a valve means 48 connected intermediate said source of fluid pressure and said release cylinder for causing said release cylinder to release such hand brake system; (d) a first valve actuation means 54 disposed on a first or upper side of such vehicle and connected intermediate said valve means and said source of fluid pressure by way of conduits and element 38 for causing said valve means to initiate communication of fluid pressure from said source of fluid pressure to said release cylinder; and (e) a second valve actuation means 38 disposed on an opposed second or bottom side of such vehicle and connected intermediate said valve means and said source of fluid pressure by way of conduits and element 54 for causing said valve means to initiate communication of fluid pressure from said source of fluid pressure to said release cylinder."

The declaration under 37 CFR 1.132 stating that the Inventor, Michael. E. Ring, invented the subject matter disclosed in the US Patent 6394559 to Ring et al. and relied on in the rejection is submitted herewith. Thus, the claimed invention is not an invention "by another".

Accordingly, the Examiner is respectfully requested to withdraw the rejection of claim 1 under 35 U.S.C. 102(e)(2) as being anticipated by US Patent 6394559 to Ring et al.

Finally, the Examiner rejected claims 2-19 under 35 U.S.C. 103(a) as being obvious over Ring et al. '559 in view of US Patent 6848754 to Ring et al. The Examiner stated that

"The applied reference has a common assignee and at least one common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321 (c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Re: claims 2 and 18. Ring et al. '559 is silent with regards to the limitation wherein the first valve actuation means and the second valve actuation means are pneumatic actuators since the reference only shows one as being a pneumatic actuator.

Ring et al. '754 teaches in col. 7 lines 25-27 that a valve actuation means may be electrically controlled, pneumatically controlled, or a combination.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the electrically controlled valve means of Ring et al. '559 to have been pneumatically controlled, in view of the teachings of Ring et al. '754, in order to provide a functionally equivalent means of regulating fluid flow.

Re: claims 3-5 and 11-13. Ring et al. '559 is silent with regards to the relatively small reservoir, check valve and choke as recited.

Ring et al. '754 teaches in figure 6 the use of a relatively small reservoir 50 connected intermediate a source of fluid pressure 76 and two valve actuation means 46 or 56 and 62. Ring et al. '754 also teaches in figure 6 the use of a check valve connected intermediate the source of fluid pressure and the relatively small reservoir and a choke connected intermediate the source of fluid pressure and the check valve.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the arrangement of the system in Ring et al. '559, as modified, to have included a relatively small reservoir and a check valve and choke to further control the pressure conditions within the apparatus depending on application.

Re: claims 6, 7, 14, and 15. Ring et al. '559, as modified, are silent with regards to the capacity amount of the small reservoir or the diameter of the choke.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the capacity amount of the small reservoir of ring et al. '559 to have been about 80 cubic inches or the choke diameter to have been about .006 in. since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Re: claim 8. Ring et al. '559, as modified, teach in figure 2 of Ring et al. '559 the limitation wherein the apparatus further includes a choke 56 connected intermediate the valve means and both the first valve actuation means and the second valve actuation means as broadly recited by virtue of the system connection as shown since the claim does not recite a connection that is fluidly intermediate.

Re: claims 9, 10, 16, and 19. Ring et al. '559 is silent with regards to the limitation wherein the first valve actuation means and the second valve actuation means are electrically operated since the reference only shows one as being electrically operated.

Ring et al. 754 teaches that a valve actuation means may be electrically controlled or pneumatic in the form of pushbutton control.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the pneumatic controlled valve means of Ring et al. '559 to have been electrically controlled, in view of the teachings of Ring et al. '754, in order to provide a functionally equivalent means of regulating fluid flow. The power source in the form of a batter is shown at element 60 in figure 2 of Ring et al. '559.

Re: claim 17. Ring et al. '559 is silent with regards to the capacity amount of the source of fluid pressure.

Ring et al. 754 teach the use of a fluid pressure source 76 having a capacity of about 3500 cubic inches.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the fluid pressure source of Ring et al. '559 to have been about 3500 cubic inches, as taught by Ring et al. 754, in order to provide sufficient capacity to handle emergency situations.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the capacity amount of the source of fluid pressure to have been about 3500 cubic inches since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)."

The declaration under 37 CFR 1.132 stating that the Inventor, Michael. E. Ring, invented the subject matter disclosed in the US Patents 6394559 and 6848574, both issued to Ring et al. and relied on in the rejection is submitted herewith. Thus, the claimed invention is not an invention "by another".

Accordingly, the Examiner is respectfully requested to

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withdraw the rejection of claims 2-19 under 35 U.S.C. 103(a) as being obvious over Ring et al. '559 in view of US Patent 6848754 to Ring et al.

CONCLUSION

In view of the above amendments to the claims and the remarks associated therewith, Applicants believe that Independent Claims 1, 18 and 19 are in a condition for allowance and such allowance by the Examiner is respectfully requested. Since it is believed that Independent Claim 1 is in condition for allowance, its dependent claims further providing limitations are also in a condition for allowance.

In the event the Examiner has further difficulties with the allowance of the application, the Examiner is invited to contact the undersigned agent by telephone at 847-687-8804 to resolve any remaining questions or issues by interview and/or by Examiner's amendment as to any matter that will expedite the completion of the prosecution of the application.

Respectfully submitted,



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